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**SUPREME COURT U.S.A.**

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IN THE

**Supreme Court of the United States**

**October Term, 1965**

**No. 1268**

**176**

**UNITED STATES OF AMERICA,**

*Appellant,*

v.

**LEE LEVI LAUB, ET AL.**

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**ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK**

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**MEMORANDUM FOR APPELLEES**

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LEONARD B. BOUDIN,  
VICTOR RABINOWITZ,  
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30 East 42nd Street,  
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IN THE

# Supreme Court of the United States

October Term, 1965

No. 1358

UNITED STATES OF AMERICA,

Appellant,

v.  
LEE LEVI LAUB, et al.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK

## MEMORANDUM FOR APPELLEES

In our view, the decision below is clearly correct regardless of whether the case is distinguishable, as appellants believe, from that of *Travis v. United States*, No. 963, this Term, certiorari granted April 18, 1966. Nevertheless, we agree that the question is substantial, that probable jurisdiction should be noted and that this case should be set down for argument together with *Travis*.

However, we request that this case not be placed upon the summary calendar. A thorough discussion of the constitutional problems, of the legislative history of the statutes involved and of the administrative implementation will require at least the full hour of oral argument provided by Rule 44(4) of the Rules of this Court. This view is also based upon the undersigned counsel's experience in *United States v. Laub*, 64 Cr. 137 (Juris. St., pp. 8-66), as well as in *Kent v. Dulles*, 357 U. S. 116, and *Zemel v. Rusk*, 381 U. S. 1. Aside from the differences between the instant

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case and that of *Travis*, it would be impractical to divide the legal argument of this important and complex case with other counsel, particularly since the legislative history requires an extensive and coherent presentation.

The undersigned counsel appears for all of the defendants herein except Phillip Abbott Luce who did not join in the motion to dismiss the indictment; Mr. Luce testified as a Government witness in *United States v. Laub*, 64 Cr. 137, and presumably would have been a Government witness in the instant case. We have no knowledge as to his standing upon the present appeal, but in any event his interests are different from those of the appellees upon whose motion the indictment herein was dismissed.

Respectfully submitted,

LEONARD B. BOUDIN,  
VICTOR RABINOWITZ,  
*Attorneys for Appellees.*

May 31, 1966

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